IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17898 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SWAMI AGNIVESH FOUNDATION TRUST THROUGH MANAGING TRUSTEE

Versus

GUJARAT SECONDARY EDUCATION BOARD

Appearance:

1. Special Civil Application No. 17898 of 2003

MR RR VAKIL for Petitioner No. 1

MR AD OZA for Respondent No. 1

MS ARCHANA RAVAL, LD.AGP for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 17/09/2004

ORAL JUDGEMENT

1. Rule. Mr.Deepak Dave, the learned advocate waives and service of rule on behalf of respondent No.1 - Board and Ms.Archana Raval, the learned AGP waives service of rule on behalf of respondents No.2 and 3.

2. In this petition under Article 227 of the Constitution of India, the petitioner has challenged the order passed by the State Government dated 29th August, 2003, in rejecting the appeal preferred by the petitioner and confirming the order passed by the Gujarat Secondary and Higher Secondary Education Board, Gandhinagar, dated 3.7.2003 in refusing to grant permission to the petitioner to start self-finance secondary school from June 2003.

3. Mr.R.R.Vakil, the learned advocate appearing on behalf of the petitioner has submitted that, while rejecting the appeal preferred by the petitioner, the State Government has considered that the petitioner is having the bank balance of Rs.1,50,000/- and that the petitioner has not produced the relevant Map with regard to construction and the building. However, at the time of hearing on 26.8.2003, the petitioner has produced the bank balance certificate dated 25.8.2003 showing the bank balance of Rs.5,30,504/- and that necessary building plan is also produced and that has not been considered by the State Government.

4. Considering the aforesaid facts and circumstances of the case, the impugned order passed by the State of Government is quashed and set aside and the matter is remanded to the State Government for deciding the appeal preferred by the petitioner, as early as possible and in accordance with law, after giving an opportunity to the petitioner and considering the documents submitted by the petitioner on 26.8.2003. Such an exercise is required to be done by the State Government within a period of three months from the date of receipt of this order. Rule is made absolute to the aforesaid extent with no order as to costs. D.S. permitted.

(M.R. Shah, J.)

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